

IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
AT JAIPUR BENCH JAIPUR.

O R D E R

- 1) S.B. CIVIL WRIT PETITION NO.2385/2006.
State of Rajasthan Vs. STAT and anr.
- 2) S.B. CIVIL WRIT PETITION NO.3839/2006.
State of Rajasthan
Vs.
Prashen Kumar & Ors.
- 3) S.B. CIVIL WRIT PETITION NO.3840/2006.
State of Rajasthan
Vs.
Jagdish Mehlawat & Ors.
- 4) S.B. CIVIL WRIT PETITION NO.3838/2006.
State of Rajasthan
Vs.
Jagdish Mehlawat & Ors.
- 5) S.B. CIVIL WRIT PETITION NO.3836/2006.
State of Rajasthan
Vs.
Rajesh Mahlawat & Ors.
- 6) S.B. CIVIL WRIT PETITION NO.3849/2006.
State of Rajasthan
Vs.
Charan Malhotra & Ors.

7) S.B. CIVIL WRIT PETITION NO.3851/2006.
State of Rajasthan Vs. Charan Singh

8) S.B. CIVIL WRIT PETITION NO.3852/2006.
State of Rajasthan Vs. Smt.Jugesh & Ors.

9) S.B. CIVIL WRIT PETITION NO.3834/2006.
State of Rajasthan
Vs.
Jagdish Mehlawat & Ors.

10) S.B. CIVIL WRIT PETITION NO.3837/2006.
State of Rajasthan
Vs.
Jagdish Mehlawat & Ors.

11) S.B. CIVIL WRIT PETITION NO.3835/2006.
State of Rajasthan
Vs.
Rajesh Mahlawat & Ors.

12) S.B. CIVIL WRIT PETITION NO.3903/2006.
State of Rajasthan
Vs.
Surat Singh & Ors.

13) S.B. CIVIL WRIT PETITION NO.3843/2006.
State of Rajasthan
Vs.
Mahaveer Singh & Ors.

14) S.B. CIVIL WRIT PETITION NO.3842/2006.
State of Rajasthan
Vs.
Mahaveer Singh & Ors.

15) S.B. CIVIL WRIT PETITION NO.3845/2006.
State of Rajasthan
Vs.
Mahaveer Singh & Ors.

16) S.B. CIVIL WRIT PETITION NO.3846/2006.
State of Rajasthan
Vs.
Yogendra Singh & Ors.

17) S.B. CIVIL WRIT PETITION NO.3859/2006.
State of Rajasthan
Vs.
Yogendra Singh & Ors.

18) S.B. CIVIL WRIT PETITION NO.3848/2006.
State of Rajasthan
Vs.
Mahaveer Singh & Ors.

19) S.B. CIVIL WRIT PETITION NO.3857/2006.
State of Rajasthan
Vs.
Rajveer Singh & Ors.

20) S.B. CIVIL WRIT PETITION NO.3844/2006.
State of Rajasthan
Vs.
Rajveer Singh & Ors.

21) S.B. CIVIL WRIT PETITION NO.3850/2006.
State of Rajasthan Vs. Surat Singh

22) S.B. CIVIL WRIT PETITION NO.3847/2006.
State of Rajasthan
Vs.
Yogendra Singh & Ors.

23) S.B. CIVIL WRIT PETITION NO.3855/2006.
State of Rajasthan
Vs.
Mahaveer Singh & Ors.

24) S.B. CIVIL WRIT PETITION NO.3858/2006.
State of Rajasthan
Vs.
Rajpal Yadav & Ors.

25) S.B. CIVIL WRIT PETITION NO.3856/2006.
State of Rajasthan
Vs.
Rajpal Yadav & Ors.

26) S.B. CIVIL WRIT PETITION NO.3899/2006.
State of Rajasthan
Vs.
Rajesh Kumar & Ors.

27) S.B. CIVIL WRIT PETITION NO.3901/2006.
State of Rajasthan Vs. Maha Singh & Ors.

28) S.B. CIVIL WRIT PETITION NO.3898/2006.
State of Rajasthan
Vs.
Anurood Verma & Ors.

29) S.B. CIVIL WRIT PETITION NO.3900/2006.
State of Rajasthan Vs. Maha Singh & Ors.

30) S.B. CIVIL WRIT PETITION NO.3907/2006.
State of Rajasthan
Vs.
Pradeep Jain & Ors.

31) S.B. CIVIL WRIT PETITION NO.3913/2006.
State of Rajasthan
Vs.
M/s.Jain Travel & Ors.

32) S.B. CIVIL WRIT PETITION NO.3897/2006.
State of Rajasthan
Vs.
Krishan Gopal Sharma & Ors.

33) S.B. CIVIL WRIT PETITION NO.3909/2006.
State of Rajasthan
Vs.
Rajendra Kumar & Ors.

34) S.B. CIVIL WRIT PETITION NO.3906/2006.
State of Rajasthan Vs. Hira Lal & Ors.

35) S.B. CIVIL WRIT PETITION NO.3905/2006.
State of Rajasthan
Vs.
Rajesh Kumar & Ors.

36) S.B. CIVIL WRIT PETITION NO.3916/2006.
State of Rajasthan Vs. Sona Ram & Ors.

37) S.B. CIVIL WRIT PETITION NO.3939/2006.
State of Rajasthan Vs. Dharmpal & Ors.

38) S.B. CIVIL WRIT PETITION NO.3917/2006.
State of Rajasthan Vs. Anil Kumar & Ors.

39) S.B. CIVIL WRIT PETITION NO.3940/2006.
State of Rajasthan Vs. Lakshaman Singh

40) S.B. CIVIL WRIT PETITION NO.3911/2006.
State of Rajasthan
Vs.
Girish Kumar & Ors.

41) S.B. CIVIL WRIT PETITION NO.3985/2006.
State of Rajasthan
Vs.
Jitendra Kumar & Anr.

Date of Order:- 30/4/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri B.S. Chhaba, Deputy Government
Advocate for the State of Rajasthan.

Heard learned Deputy Government
Advocate appearing for the State.

By way of these writ petitions, the
State Government is challenging the
decisions of the learned State Transport
Appellate Tribunal, Rajasthan, Jaipur
passed on different dates filed by
respondents whereby, the condition imposed
upon the R.T.O. Jaipur while granting
permits to them was modified and it was
directed that instead of two return trips,
the concerned vehicles would be required

to be plied on the specified routes only for one return trip. In certain cases, wherein the R.T.O. earlier permitted to ply such vehicles in four return trips, modification was made only to the effect that they would be required to ply vehicles only in two return trips instead of four.

This very controversy came up before the Division Bench of this Court in D.B. Civil Special Appeal (W) No.186/2007 (State of Rajasthan Vs. Sube Singh & Ors.) decided on 25/4/2007 arising out of the judgment passed by the learned Single Judge dismissing similar writ petition in which decision of the Tribunal dated 27/1/2006 was challenged. The Hon'ble Division Bench upon hearing arguments ordered as under:-

“The case of the State is that in terms of Section 72(2)(iii) of the Motor Vehicles Act, 1988, the Regional Transport Authority while granting stage carriage permit is competent to attach conditions in the matter of minimum and maximum number of daily trips to be provided

in relation to any route or area generally. In terms of Section 214 (3) of the Act, the order made by the competent authority can not be reversed or altered on appeal or revision except where error, omission or irregularity in the proceedings has occasioned failure of justice. The case of the State further is that having regard to the nature of the service which is intended to cater to the interest of passengers at large, the condition that vehicle will make two trips was rightly imposed by the Regional Transport Authority and the State Transport Appellate Authority committed error in interfering with the same.

The impugned order was passed in appeal preferred by Sube Singh. He inter alia contended that he had applied for grant of permit for one return trip and the Regional Transport Authority was not correct in imposing the condition that the vehicle must make two trips.

The State was not party to the proceedings before the Appellate Tribunal. We are of the view that it would be appropriate if the authority is asked to consider the grievance of the State at the first instance. The order was passed virtually ex parte (the only respondent was the Regional

Transport Authority, Alwar region), in the interest of justice to ask the Appellate Authority to reconsider the matter.

We accordingly without interfering with order of the State Transport Authority, for the present, permit the State to apply for modification of the order. It goes without saying that in case the application does not succeed, it will be open to the State to challenge the order before this Court.

The appeal thus stands disposed of."

Having heard learned Deputy Government Advocate and perused the impugned-order, I find that the present case is in no way distinguishable from the case that was decided by the Hon'ble Division Bench in D.B. Civil Special Appeal (W) No.186/2007 as aforesaid, in which it was held that since the State was not party before the Tribunal therefore it would be appropriate that the State Transport Appellate Authority is asked to

consider the grievance of the State at the first instance because the order impugned was ex-parte and the R.T.O. being only respondent impleaded in the appeal therefore, it would be in the interest of justice to ask the Appellate Authority to re-consider the matter. The Division Bench therefore permitted the State Government to apply for modification of the order with the liberty to the State that in the event of its not succeeding, it would be open to it to again challenge the order before this Court.

The present writ petitions are disposed of in the light of the judgment & order dated 25/4/2007 passed in D.B. civil Special Appeal (W) No.186/2007 (State of Rajasthan Vs. Sube Singh & Ors.) with the observation that the directions contained in the aforesaid judgment dated 25/4/2007 shall also *mutatis mutandis* be applied to the present set of writ petitions as well.

(MOHAMMAD RAFIQ), J.

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